

HANMING FENG

Plaintiff,

-against-

SOY SAUCE LLC

and

GAVRIEL BORENSTEIN

Defendants,

CASE NO.: 15-cv-03058

RESPONSE TO PLAINTIFFS PRETRIAL MEMORANDUM OF LAW

Plaintiff has submitted information that is both not true and speculative. To be clear, I am stating that Mr Troy has submitted documents that contain perjury. FLSA claims specifically, and judgements of courts in general, must not be based on speculation. In a free country, the judicial system must not entertain speculation as evidence. For this reason, I am hesitant to even respond to his Memorandum of Law. However, since I am not a legal expert, I submit the following statements.

It is apparent that council prepared statements by downloading the menu from the the store website and attempted to have their clients sign documents calculating poundage of food and corresponding prices found on customer "checks." What council failed to consider, among other things, is that the menu available on our website is the latest addition. The menu used during the timeline subject to FLSA scrutiny was significantly different, with prices approximately 20%-30% less.

This, in my opinion, is immaterial, however, because not one of the plaintiffs would have any reason to come in contact with any customer "check". To reiterate what was previously stated in earlier court proceedings, the plaintiffs in this case are kitchen staff. We do not have waiters, as this is a takeout establishment. Customer "checks" are printed on a thermal receipt printer on the counter with the Point of Sale computer system in the FRONT OF HOUSE. This printer prints two types of receipts: Itemized receipts with prices for each item and the totals, sales tax and discount information. The other type of receipt is a credit card receipt with a line for a customer signature. Under the desktop is a cash register. Behind this register I stand, sometimes along with another staff member who would assist in taking orders, but never any of the plaintiffs or opt-ins. Behind me is a wall with a curtain. Behind this wall is the kitchen, AKA BACK OF HOUSE. Unless any of the plaintiff were to follow a customer home and take a "check" from their garbage, I can't think of any circumstance where they would have come in contact with a "check."

This is an important point to understand as it is fundamental to the the plaintiffs claims. The only "check" that any plaintiff in this case may have knowledge of is their "paycheck." It is important to delineate these two terms, as we did, in fact, at the last hearing in this court. In front of Judge Vitaliano and on the record, opposing counsel initially stated his clients were prepared to

discuss and possibly present "checks." When I challenged this assertion, His Honor requested clarification from counsel, at which time counsel clarified that he was referring to paychecks and not customer bills. Unless counsel's intention is to reverse himself, and enter court with customer checks to show the court, I'm not sure why reverted back to this claim.

In the kitchen there are two additional impact printers that print some or part of an order, one of which is a duplicate. Due to the way these printers are formatted, the orders are printed on chits and seldom contain prices of specific items, and never contain order totals. What they do contain is items ordered, usually with a chinese translation. The price of the the item is irrelevant to kitchen staff and therefore usually does not appear.

Even if a plaintiff were to claim that this kitchen chit is what he is referring to, and from these chits he was able to calculate revenue based on the random individual item price that may appear here or there, and commit this information to memory, based on his "10 years of experience" in the restaurant business establish FLSA, the following is relevant:

Plaintiff Feng, as he currently requests to be called, (as opposed to the stolen identity under which he worked,) states that he worked as a "cook" but then goes on to describe his duties as "cooking rice, chopping meat and vegetables and cleaning floors." These two statements are in conflict with each other. Furthermore, in a food service establishment, cooking rice, chopping meat and vegetables is done in bulk throughout the day. They are not done separately for each order, as Mr Feng swore. To suggest otherwise is ridiculous and ludicrous. Furthermore, chopping meat and vegetables is done in the basement. There is no printer in the basement. As far as "making rice," this is done by filling the rice maker 2-4 times a day and adding water. None of the kitchen staff are even allowed to push the "on" button on the rice maker, in accordance with kosher law. Aside from mopping, and filling the rice maker a couple of times each day, plaintiff Feng would not spend anytime on the top floor of the kitchen, and therefore would have no part in preparing specific orders and have no knowledge of specific orders. His assertion that he received "checks," saw the "dollar amount" and there was an average of "250 orders" per day is contrary to the facts. We currently average about 100 orders per day. Before we raised prices, the average was closer to 120 orders. We may have reached 200 orders on literally one or two occasions such as Christmas or before the Passover holiday. He would know this if his statement wasn't fabricated. This can be illustrated with reports from the POS system and verified by checking this against the credit card statements. While Council has accused me of hiding income, I challenge him to find how I can hide credit card charges. Lastly, he states that he made yellow rice and egg fried rice. The yellow rice and the egg fried rice is ONE IN THE SAME, but we did not start making it "yellow" until summer of 2016, long after he stopped working at SOYSAUCE.

Plaintiff Zeng, under penalty of perjury, swore that his duties included "frying pork chops." Please don't tell the Rabbi?


As a fryer, he would receive a kitchen chit containing only the portion of the order pertinent to him. This chit, like the other, rarely contained currency, as it was not pertinent to his work. . He also stated that based on his experience, "Any restaurant with such size can not operate or pay employees their salaries without generating \$500,000." Without giving credence to Mr Zeng's business expertise, he has no knowledge of starting capital, business loans, and collected but unpaid sales tax, and other sources of moneys that would not be calculated while establishing the \$500,000 required for FLSA claims.

Plaintiff Yam, like Mr. Zeng, apparently also made "Pork Chops." Sounds delicious, but can't be true. He also stated that the store made 100 lbs of rice per day at a price "\$7 to \$10 depending on it's use". The fact is that more than 95% of rice sold by this establishment is either FREE, or \$1 for brown or fried. Even if he was correct, his recollection of how much rice he made would be a wild way to certify FLSA. Once again, he has no access to customer "checks." He would also not have a reason, generally speaking, to look at a kitchen chit. And even if he did, the chit would usually not contain item prices and never contain order totals. Mr Zeng's brother in law, Wai Y Lau, (deceased) would read each chit and hand the ingredients to Mr Yam. This was the standard practice.

In summary, not even one of the plaintiffs would have access to customer "checks." Furthermore, Primary Plaintiff Feng would not even have reason to come across a kitchen chit, which at most contained random prices, and his work was not relevant to specific orders. Plaintiff Yam might occasionally see a chit, but the idea that he can calculate store revenue based what he remembers, even if he saw all the chits, is laughable. Any guestimate as to quantities of food would need to include the fact that most food is handled by several people. For example, Mr Feng might chop chicken, which later in the day Mr Zeng would fry, and later Mr Yam would put in the wok to make General Tso Chicken. Plaintiff Zeng would only have had access to chits that contain only a portion of a portion of any order, and still more rarely, see a price. And I apologize for the redundancy, but the idea that he can calculate store revenue based what he remembers, even if he saw all the chits, is preposterous.

Whereas council has knowingly and willings submitted fraudulent statements, thereby constituting unclean hands, I move that this case be dismissed in it's entirety with prejudice. Precedent 163 F.2d 505 (1947)MAS v. COCA-COLA CO. No. 5582. Circuit Court of Appeals, Fourth Circuit. Regarding those plaintiffs that have defamed my store by swearing that I serve Pork Chops in my Kosher establishment, I will decide later if I will retain council on contingency to seek damages for defamation leading to loss or revenue. Regarding Mr Troy and his associates suborning perjury, I will address that issue in the proper venue, naming each associate individually.

I, Gavriel Borenstein, affirm that these statements are true to the best of my knowledge.

 11/19/17

Dieter's Options

Vegetarian, No Fat, Low Fat & Steamed
Served w. White Rice (w. Brown or Fried Rice Add \$1.00)

	Sm.	Reg.
108. Grilled Vegetables.....	4.90	8.90
109. Vegetable Delight.....	4.90	8.90
110. Sautéed String Beans.....	4.90	8.95
111. Moo Shu Vegetable w. 4 Pancakes.....		8.95
112. Broccoli w. Garlic Sauce.....		8.90
113. Tofu w. Mixed Vegetables.....		8.95
114. Mo Po Tofu (w. Meat).....		8.95
115. Tofu w. Garlic Sauce.....		8.95
116. Tofu w. Sautéed Spinach.....		8.95
117. Eggplant w. Garlic Sauce.....		8.90
118. Grilled Chicken Tenders.....		9.75

Steamed

(These Dishes Contain No Oil, Salt, Sugar, Corn Starch or Soy Sauce Unless Requested)

119. Steamed Chicken w. String Beans.....	6.95	12.90
120. Steamed Chicken w. Bean Sprouts.....	6.95	12.90
121. Steamed Eggplant.....	4.90	8.95
122. Steamed Broccoli.....	4.90	8.95
123. Steamed Chicken w. Broccoli.....	6.95	12.90
124. Steamed Beef w. Broccoli.....	7.45	13.90
125. Steamed Chicken w. Mixed Vegetables.....	6.95	12.90
126. Steamed Beef w. Mixed Vegetable.....	7.45	13.90
127. Steamed Mixed Vegetables.....	4.90	8.95
128. Steamed Chicken & Beef w. Mixed Vegetables.....	7.45	13.95
129. Steamed Tofu w. Mixed Vegetables.....	5.25	8.95
130. Cold Asian Health Salad.....	(Pl.)	3.95

Young But Wise III

131. Chicken Strips w. French Fries.....	5.60
132. Beef Pockets w. French Fries.....	6.60
133. Oriental Hot Dog.....	3.95
134. French Fries.....	1.95
135. Half Fried Chicken.....	9.95

We Take Special Requests!

If you don't see it on our menu or
would like a different preparation, just ask.
We'll do our best to accommodate your request.

Korean Food

Served w. White Rice (w. Brown Rice or Fried Rice Add \$1.00)

116. Korean Honey Garlic Chicken (White Meat).....	16.65
137. Korean Chicken w. Hot Pepper Sauce.....	16.45
138. Korean Beef w. Hot Pepper Sauce.....	18.50
139. Korean Veal w. Hot Pepper Sauce.....	19.10

Side Order

140. Chopstix.....	FREE with order upon request
141. Fried Rice.....	(Pl.) 2.00
142. White Rice.....	(Pl.) 1.00
143. Panenke.....	(Ea.) 0.75
144. Brown Rice.....	(Pl.) 2.00
145. Sauce (Pl.) White, General, Brown & Garlic Sauce.....	2.50

The Oriental Sandwich Master \$7.45

Served w. garlic mayo & Lettuce

- O1. General Tso Sub or Wrap
- O2. Fried Schnitzel Sub or Wrap
- O3. NY Steak Mix Sub or Wrap
- O4. Grilled Chicken Sub or Wrap
- O5. Grilled Vegetable Mix Sub or Wrap
- O6. Spicy Chicken Meteor Sub or Wrap



*** Gluten Free Available ***

Hot & Spicy

All of our dishes are made special for you!
We can alter the spices to suit your taste.

Lunch Special

11:00 am - 4:00 pm

\$6.99

Served w. Fried Rice and
Choice of Egg Drop, Wonton, Hot & Sour Soup
or Chicken Noodle
(Egg Roll or Soda Can Instead of Soup Add \$0.99)

- L 1. Beef w. Broccoli
- L 2. Beef w. Garlic Sauce
- L 3. Tofu w. Mixed Vegetables
- L 4. Beef w. Mixed Vegetables
- L 5. Sweet & Sour Chicken
- L 6. Sweet & Sour Veal
- L 7. Chicken w. Broccoli
- L 8. Chicken w. Garlic Sauce
- L 9. Moo Gon Gai Pan
- L10. Choice of Any Lo Mein / Mei Fun or Chow Fun
- L12. Eggplant w. Garlic Sauce
- L13. Korean Chicken w. Hot Pepper Sauce
- L14. Beef w. Mushrooms
- L15. Beef w. Snow Peas
- L16. Beef w. Peppers & Onions
- L17. General Tso
- L18. Sesame Chicken
- L19. Vegetable Delight
- L20. Fried Chicken Wings
- L21. Chicken w. Mixed Vegetables
- L22. Kung Pao Chicken
- L23. Mongolian Beef

**SOYSAUCE**

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Sheva Brachos

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Egg Roll Mania

1. Crispy Beef Egg Roll.....	1.80
2. Chicken Egg Roll.....	2.80
3. * Stuffed Chopstick (3 Pcs).....	5.25
Spicy seasoned ground beef stuffed in a thin spring roll wrapper and deep fried.	
4. Pastrami Egg Roll.....	3.25
5. Vegetable Egg Roll.....	1.80
6. Spring Roll.....	1.30

Appetizers

7. Scallion Pancake.....	1.35
8. Fried Chicken Wings..... (Sm.) 4.65 (Reg.) 8.65	
9. Sweet Barbecued Chicken Wings (Sm.) 4.65 (Reg.) 8.65	
10. * Fiesty Hot Wings.....	8.65
11. Spicy Boneless Chicken Meteor.....	8.65
12. Fried Wonton (10).....	4.90
13. * Szechuan Wonton in Spicy Sauce.....	5.95
14. Steamed or Pan Fried Beef Dumplings (6).....	5.95
15. Steamed or Pan Fried Vegetable Dumplings (6).....	5.95
16. Dim Sum (6).....	4.30
17. Barbecued Veal Spare Ribs..... (Sm.) 11.50 (Reg.) 17.95	
18. Bangkok Boneless Beef Ribs in a sticky-sweet sauce.....	18.00
19. Pu Pu Platter (for 2).....	20.00
20. Barbecued Beef Sticks..... (3) 5.95 (7) 12.65	
21. Tempura Vegetable.....	8.95

Soup

Served w. Crispy Noodles	Pt.	Qt.
22. Wonton Soup.....	2.25	3.75
23. * Hot & Sour Soup.....	2.60	4.60
24. Egg Drop Soup.....	1.85	3.00
25. Wonton in Egg Drop Soup.....	2.50	4.00
26. Chicken w. Sweet Corn Soup.....	1.95	3.25
27. House Special Soup.....	5.75	
28. Vegetable Soup.....	2.30	4.50
29. Chicken Rice or Noodle Soup.....	2.25	3.75
30. Tofu Broccoli Soup.....	2.85	4.85

Fried Rice

	Sub.	Reg.
31. Vegetable Fried Rice.....	3.90	6.95
32. Beef Fried Rice.....	4.75	8.90
33. Roast Veal Fried Rice.....	3.35	9.65
34. Chicken Fried Rice.....	4.70	8.90
35. Joey's House Special Fried Rice.....	5.40	9.75

Lo Mein or Mei Fun

	Sm.	Reg.
36. Vegetable Lo Mein / Mei Fun.....	4.25	8.90
37. Beef Lo Mein / Mei Fun.....	5.70	10.95
38. Roast Veal Lo Mein / Mei Fun.....	6.50	11.90
39. Chicken Lo Mein / Mei Fun.....	3.65	10.90
40. The Mixed Lo Mein / AGP Mei Fun.....	6.75	11.90
41. * Mei Fun Singapore Style.....	7.25	13.35

Chow Fun
(Wife Noodles)

	Sm.	Reg.
42. Vegetable.....	5.95	8.90
43. Beef.....	5.70	10.95
44. Roast Veal.....	6.60	11.90
45. Chicken.....	5.65	10.90
46. Mixed.....	7.25	13.35

Chow Mein

Served w. White Rice or Crispy Noodle
(w. Brown Rice or Fried Rice Add \$1.00)

	Sm.	Reg.
47. Vegetable.....	5.70	10.55
48. Beef.....	6.45	11.75
49. Roast Veal.....	6.65	12.35
50. Chicken.....	6.15	11.65
51. Coporai's Chow Min.....	6.75	12.75

Noodles

52. Chicken w. Cold Noodle in a Sesame Peanut Sauce.....	5.95
53. * Ja-Glang Mein Korean Style.....	10.90
54. Pan Fried Noodles Hong Kong Style.....	12.15

Beef

Served w. White Rice
(w. Brown Rice or Fried Rice Add \$1.00)

	Sm.	Reg.
55. Beef w. Broccoli.....	7.45	13.90
56. Beef w. Peppers & Onions.....	7.45	13.90
57. Moo Shu Beef w. 4 Pancakes.....	7.45	13.90
58. Beef w. Black Mushroom.....	7.45	13.90
59. * Kung Pao Beef.....	7.45	13.90
60. * Beef w. Peking Sauce.....	7.45	13.90
61. Beef w. Chinese Vegetables.....	7.45	13.90
62. Beef w. Mushrooms.....	7.45	13.90
63. Beef w. Snow Peas.....	7.45	13.90
64. Beef w. Baby Corn.....	7.45	13.90
65. Beef w. String Beans.....	7.45	13.90
66. Beef w. Eggplant.....	7.45	13.90
67. * Curry Beef.....	7.45	13.90
68. * Beef w. Garlic Sauce.....	7.45	13.90
69. * Hot & Spicy Beef.....	7.45	13.90

Veal

Served w. White Rice (w. Brown Rice or Fried Rice Add \$1.00)

	Sub.	Reg.
70. Roast Veal w. Broccoli.....	7.95	15.85
71. * Hunan Veal.....	7.95	15.85
72. Sweet & Sour Veal.....	7.95	15.85
73. Moo Shu Veal w. 4 Pancakes.....	7.95	15.85
74. * Veal w. Garlic Sauce.....	7.95	15.85
75. Roast Veal w. Mushrooms.....	7.95	15.85
76. Roast Veal w. Mixed Vegetables.....	7.95	15.85
77. * Sautéed Veal (Cooked Twice).....	7.95	15.85
78. Roast Veal w. Snow Peas.....	7.95	15.85
79. Veal & Peppers.....	7.95	15.85

Chicken

Served w. White Rice (w. Brown Rice or Fried Rice Add \$1.00)

	Sub.	Reg.
80. * Hunan Chicken.....	6.95	12.90
81. * Chicken w. Garlic Sauce.....	6.95	12.90
82. * Curry Chicken.....	6.95	12.90
83. Sweet & Sour Chicken (Sauce on side).....	6.95	12.90
85. Chicken w. Broccoli.....	6.95	12.90
86. Chicken w. Peppers & Sautéed Onions.....	6.95	12.90
87. Chicken w. Eggplant.....	6.95	12.90
88. Moo Shu Chicken w. 4 Pancakes.....	6.95	12.90
89. Moo Goo Gai Pan.....	6.95	12.90
90. Chicken w. String Beans.....	6.95	12.90
91. Chicken w. Mixed Vegetables.....	6.95	12.90
92. Chicken w. Peppers & Tomatoes.....	6.95	12.90
93. Chicken w. Cashew Nuts.....	6.95	12.90
94. Almond Chicken.....	6.95	12.90
95. * Chicken w. Peking Sauce.....	6.95	12.90
96. Chicken w. Black Mushrooms.....	6.95	12.90
97. * Kung Pao Chicken.....	6.95	12.90
98. Chicken w. Baby Corn.....	6.95	12.90
99. Chicken w. Snow Peas.....	6.95	12.90
100. * Hot & Spicy Chicken.....	6.95	12.90
101. Chicken w. Mushrooms.....	6.95	12.90

Egg Foo Young

Served w. White Rice (w. Brown Rice or Fried Rice Add \$1.00)

102. Vegetable Omelette.....	9.15
103. Beef Omelette.....	9.95
104. Chicken Omelette.....	9.70
105. Veal Omelette.....	11.25
106. Pastrami Omelette.....	11.25
107. The Grand Mix Omelette.....	11.25

Chef Joey's Specials

Served w. White Rice (w. Brown Rice or Fried Rice Add \$1.00)

J 1. * General Tao's Chicken.....	14.90
Crispy, lightly coated chicken chunks, well marinated and spiced w. Chef Joey's special sauce.	
J 2. * General Zen.....	14.90
Herbaceous of troubled times this famous recipe was lost for many years. Zen's chef was a student under Tao's chef and later became the cook for Zen. Tao's adversary.	
J 3. * Sesame Chicken.....	14.95
Lightly battered chicken blended with a mouth watering brown sauce covered with sesame seeds and garnished with broccoli.	
J 4. * Empress Chicken.....	16.95
Lightly battered chicken marinated in vegetables & a tasty sauce.	
J 5. * Orange Flavored Chicken.....	14.95
Crispy chunks of chicken sautéed w. a sweet hot orange flavored sauce.	
J 6. * Lemon Flavored Chicken.....	13.85
Crispy chunks of chicken sautéed with a sweet hot lemon flavored sauce.	
J 7. * Mango Chicken.....	15.95
Boneless Chicken, lightly coated and served w. Mango w. the chef's special brown sauce.	
J 8. * Shanghai Mix.....	16.95
This is what you get when you mix pot roast, veal, beef, chicken, onions and vegetables in a tasty brown sauce.	
J 9. * Imperial Chicken.....	16.65
Sliced chicken w. sautéed spinach on the side & Chef Joey's hot sauce.	
J 10. * Kung Pao Delight.....	14.95
Beef & chicken mixed w. peanuts & Chinese vegetables in a spicy sauce.	
J 11. * Sesame Beef.....	18.80
Chunks of beef blended w. a hot sweet brown sauce & garnished w. sesame.	
J 12. * Orange Flavored Beef.....	18.85
Tender broasted chunks of beef in a sweet hot orange sauce.	
J 13. * General Tofu.....	10.95
Crispy lightly coated tofu cubes mixed w. Chinese vegetables and sesame seeds in Chef Joey's sweet tasty sauce.	
J 14. * Kung Po Krunch.....	17.75
Flattened white meat chicken lying atop a crispy mei fun bed.	
J 15. * Sweet Hawaiian Chicken.....	17.65
Slices of tender chicken, sautéed w. vegetables in a sweet white sauce.	
J 16. * Mushroom Delight.....	17.65
China w. black mushrooms, fresh mushrooms & snow peas served in a brown sauce.	
J 17. * Salt & Pepper Chicken.....	14.90
Crispy chunks of battered chicken made w. secret spices over a bed of sautéed onions.	
J 19. * Oriental Popcorn Chicken.....	15.95
Baked dark meat mixed w. water chestnuts, green pepper & celery in garlic sauce.	
J 20. * Mongolian Beef.....	16.90
Sliced beef with sautéed onion & vegetables stir fried in a sticky-sweet spicy brown sauce.	

Dec 2013